

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KELLY DUNKLE,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. <u>2:21-cv-894</u>
	:	
SHEETZ, INC.,	:	
	:	
Defendant.	:	ELECTRONICALLY FILED
	:	
	:	

NOTICE OF REMOVAL OF ACTION

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Sheetz, Inc. (“Defendant” or “Sheetz”) hereby removes to this Court the state court action described below, and respectfully submits as follows:

1. Plaintiff Kelly Dunkle commenced a civil action against Sheetz by filing a Praecept for Writ of Summons on or about November 12, 2020 in the Court of Common Pleas of Allegheny County, Pennsylvania, captioned *Kelly Dunkle v. Sheetz, Inc.*, Docket No. GD-20-011651. (See Exhibit A).
2. On or about December 14, 2021, Plaintiff filed a Praecept to Reissue Writ of Summons. (See Exhibit B).
3. Sheetz was served with a copy of the Reissued Writ of Summons on or about January 12, 2021.
4. Plaintiff filed her Complaint in the Court of Commons Pleas of Allegheny County on or about June 22, 2021. (See Exhibit C).

5. Plaintiff's Complaint, filed on or about June 22, 2021, was the first pleading filed by Plaintiff and received by Defendant that set forth the claims for relief upon which Plaintiff brings this action against Sheetz.

6. In accordance with 28 U.S.C. § 1446(d), this Notice of Removal has been timely filed by Sheetz within thirty (30) days after the filing of the Complaint with the Court of Common Pleas of Allegheny County.

7. This Court has original jurisdiction over this action under 28 U.S.C. § 1331 because Plaintiff brings claims arising under the laws of the United States.

8. Specifically, Plaintiff's claims in Count One arise under the Americans with Disabilities Act, as amended, 42 U.S.C. §§ 12101, *et seq.* ("ADA").

9. Plaintiff's claim in Count Two arises under the Age Discrimination in Employment Act, as amended, 29 U.S.C. §§ 621, *et seq.* ("ADEA").

10. Plaintiff's claim in Count Three arises under the Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 ("FMLA").

11. This Court has original jurisdiction over Plaintiff's federal claims without consideration of the amount in controversy and without regard to the citizenship of the parties.

12. By reason of the foregoing and pursuant to 28 U.S.C. § 1441(a), Sheetz desires and is entitled to have this case removed from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District Court for the Western District of Pennsylvania.

13. This Court is the district and division embracing the place where the state court action is pending for purposes of 28 U.S.C. § 1441(a).

14. True and correct copies of this Notice of Removal are being promptly filed with the Court of Common Pleas of Allegheny County, Pennsylvania, and served this date upon the Plaintiff.

WHEREFORE, Sheetz respectfully requests that this case be removed to the United States District Court for the Western District of Pennsylvania, that this Court accept jurisdiction of this action, and that this action be henceforth placed on the docket of this Court for all further proceedings as though the same action had been originally instituted and commenced in this Court.

Respectfully submitted,

/s/ Katelyn W. McCombs

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Attorneys for Defendant

Dated: July 13, 2021

CERTIFICATE OF SERVICE

I certify that on this 13th day of July 2021, a true and correct copy of the foregoing Defendant's Notice of Removal of Action was served by electronic mail upon the following:

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/s/ *Katelyn W. McCombs*
Katelyn W. McCombs

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